

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

HAROLD MARIN,

Petitioner,

v.

CALVIN JOHNSON,¹ *et al.*,

Respondents.

Case No. 2:22-cv-00862-GMN-EJY

ORDER

Petitioner Harold Marin (“Petitioner”) filed a *pro se* federal habeas corpus petition under 28 U.S.C. § 2254 (ECF No. 1-1). As directed by this Court’s order of July 7, 2022, Petitioner timely paid the filing fee. (ECF Nos. 3; 4.) Thus, the Clerk will be ordered to file Petitioner’s habeas petition (ECF No. 1-1) and motion for appointment of counsel (ECF No. 1-2).

The Court has conducted initial review of the habeas petition under Rule 4 of the Rules Governing Section 2254 Cases in the United States District Courts. The petition will be served upon the respondents and will require a response.

There is no constitutional right to appointed counsel in a federal habeas corpus proceeding. *Luna v. Kernan*, 784 F.3d 640, 642 (9th Cir. 2015) (citing *Lawrence v. Florida*, 549 U.S. 327, 336–37 (2007)). An indigent petitioner may request appointed counsel to pursue habeas relief. 18 U.S.C. § 3006A(a)(2)(B). The decision to appoint counsel is generally discretionary. *Id.* § 3006A(a)(2) (authorizing appointment of counsel “when the interests of justice so require”). However, counsel must be appointed if the complexities of the case are such that denial of counsel would amount to a denial of due process, and where the petitioner is so uneducated that he is incapable of fairly presenting his claims. *LaMere v. Risley*, 827 F.2d 622, 626 (9th Cir. 1987); *Brown v. United States*,

¹ According to the state corrections department’s inmate locator page, Marin is incarcerated at High Desert State Prison. The department’s website reflects that Calvin Johnson is the warden for that facility. https://doc.nv.gov/Facilities/HDSP_Facility/. The Court will therefore <https://ofdsearch.doc.nv.gov/form.php> direct the clerk to substitute Calvin Johnson for respondent Brian Williams, under, *inter alia*, Rule 25(d) of the Federal Rules of Civil Procedure.

1 623 F.2d 54, 61 (9th Cir. 1980).

2 The Court finds Petitioner is unable able to afford counsel and the appointment of counsel
3 is justified based on the lengthy sentence structure and the complexity of the issues and potential
4 procedural obstacles presented in the petition. *See* ECF No. 1-1. The Court will therefore grant
5 Petitioner's motion for appointment of counsel.

6 IT IS THEREFORE ORDERED that the Clerk of the Court file the petition.

7 IT FURTHER IS ORDERED that Petitioner's motion for appointment of counsel (ECF No.
8 1-2) is GRANTED. The Federal Public Defender is provisionally appointed to represent petitioner
9 in all proceedings related to this matter, including any appeals or certiorari proceedings, unless
10 allowed to withdraw.

11 IT FURTHER IS ORDERED that the Federal Public Defender must, within 30 days from
12 the date that this order is entered, undertake direct representation of Petitioner or indicate to the
13 Court the inability to represent Petitioner in these proceedings. If the Federal Public Defender is
14 unable to represent Petitioner, then the court will appoint alternate counsel.

15 IT FURTHER IS ORDERED that neither the foregoing deadline nor any extension thereof
16 signifies or will signify any implied finding of a basis for tolling during the time period established.
17 At all times, Petitioner remains responsible for calculating the running of the federal limitation
18 period under 28 U.S.C. § 2254(d)(1) and timely asserting claims. That is, by setting a deadline to
19 amend the petition and/or by granting any extension thereof, the Court makes no finding or
20 representation that the petition, any amendments thereto, and/or any claims contained therein are
21 not subject to dismissal as untimely. *See Sossa v. Diaz*, 729 F.3d 1225, 1235 (9th Cir. 2013);

22 IT FURTHER IS ORDERED that the Clerk of the Court add Aaron D. Ford, Attorney
23 General for the State of Nevada, as counsel for Respondents.

24 IT FURTHER IS ORDERED that Respondents' counsel must enter a notice of appearance
25 within 20 days of entry of this order, but no further responses will be required from Respondents
26 until further order of the Court.

27 IT FURTHER IS ORDERED that, notwithstanding Local Rule LR IC 2-2A(g) paper copies
28 of any electronically filed exhibits need not be provided to chambers or to the staff attorney, unless

1 later directed by the Court.

2 IT FURTHER IS ORDERED that the Clerk of the Court shall SEND a copy of this order
3 to Petitioner, Respondents, the Federal Public Defender, and the CJA Coordinator for this Division.

4 It IS FURTHER ORDERED THAT the Clerk of the Court shall substitute Calvin Johnson
5 for respondent Brian Williams.

6 DATED THIS 23 day of August 2022.

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9 GLORIA M. NAVARRO
10 UNITED STATES DISTRICT JUDGE
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